

**Security Council**

Distr.: General
8 December 2005

Original: English

Twenty-first report of the Secretary-General pursuant to paragraph 14 of resolution 1284 (1999)**I. Introduction**

1. The present report is submitted pursuant to paragraph 14 of Security Council resolution 1284 (1999), in which the Council requested me to report every four months on the compliance by Iraq with its obligations regarding the repatriation or return of all Kuwaiti and third-country nationals or their remains and every six months on the return of all Kuwaiti property, including archives, seized by Iraq. The present report covers both issues and provides an account of the relevant developments since my last reports (S/2005/377 and S/2005/513).

II. Background

2. The Council of the League of Arab States, meeting in New York on 8 September 2005 at the level of foreign ministers, condemned the grave violations of human rights committed during the occupation of the State of Kuwait and the suppression of the facts related to Kuwaiti prisoners and missing persons and third-country nationals. It expressed deep sympathy with the families of the victims whose remains were identified. The Council also expressed concern for the plight of those whose whereabouts are still unknown. It called for the continuation of efforts aimed at discovering the fate of all Kuwaiti prisoners and missing persons and third-country nationals.

3. The forty-ninth session of the Technical Subcommittee took place on 13 November in Kuwait. It was followed by the twenty-eighth meeting of the Tripartite Commission on 15 November. Chaired by the International Committee of the Red Cross (ICRC), both sessions were attended by representatives of France, Iraq, Kuwait, Saudi Arabia, the United Kingdom of Great Britain and Northern Ireland and the United States of America.



III. Recent activities with regard to the repatriation and return of all Kuwaiti and third-country nationals or their remains

4. In August 2005, I reported that the remains of 227 Kuwaiti and third-country prisoners and missing persons had been identified (see S/2005/513). The number has remained unchanged since then. Of the total, 202 are Kuwaiti, 6 Saudi, 2 Lebanese, 1 Egyptian, 1 Omani, 3 Iranian and 12 stateless. The identifications were based on the mortal remains brought to Kuwait in 2004.
5. From 14 to 16 November 2005, the High-level Coordinator, Yuli Vorontsov, visited Kuwait. He had meetings with members of the Kuwaiti National Committee for Missing Persons and Prisoners of War Affairs and other Kuwaiti officials. He also met with the Technical Subcommittee and Tripartite Commission members.
6. Ambassador Vorontsov was advised that while the Kuwaiti search and assessment teams had visited several grave sites in Iraq, no new human remains had been brought to Kuwait. The total number of mortal remains exhumed has remained at around 340. The assessment and exhumation operations this year were complicated by the security situation in Iraq.
7. The security and logistical support provided by members of the multinational force in Iraq to the Kuwaiti teams in conducting their activities in the country was of crucial importance. The assistance received from contingents of Bulgaria, Denmark, Italy, Poland, Romania, Thailand, the United Kingdom and the United States is greatly valued.
8. While little assessment and exhumation activity was conducted in the field by the Kuwaiti experts, Iraq's improved and diversified cooperation has facilitated the continuation of work. On two occasions Iraq recovered and handed over to Kuwait, under the auspices of the ICRC, samples of mortal remains from a grave site near Amarah, eliminating the need for Kuwaiti teams to travel to the site. The samples were dispatched for DNA testing. Iraq also provided information about a new gravesite that presumably contained the human remains of nationals of Kuwait. Efforts to identify witnesses and other potential sources of information continued.
9. The qualitative improvement in Iraq's cooperation, which has been recognized by Kuwaiti officials, may speed up the whole process of searching for the remains of Kuwaiti and third-country missing persons. This cooperation is built on trust and a common belief in the humanitarian nature of these activities.
10. In Kuwait, the High-level Coordinator inquired about a number of mortal remains that had been exhumed but remained unidentified. He was informed that identification was greatly influenced by the location, the chemical composition of the soil and the quality and quantity of skeletal material. In some cases DNA analysis had not produced a definite answer. Kuwait was therefore seeking additional technical support on the part of specialized laboratories in other countries and had asked members of the Tripartite Commission for assistance in the identification efforts. France had already offered its technical expertise.
11. In a separate development, a joint assessment mission comprising Iraq, Saudi Arabia and the International Committee of the Red Cross was preparing to take stock of burial places in Saudi Arabia that contained the remains of Iraqi nationals.

The mortal remains of an Iraqi soldier found in Kuwait (S/2005/513, para. 11) were repatriated to Iraq.

12. The fate of the missing American serviceman, Captain Michael Scott Speicher, had not been determined. The search for him continued. The DNA information from his family had been entered in the Kuwaiti database used to identify mortal remains. No match had so far been established.

IV. Recent activities with regard to the return of Kuwaiti property

13. During the reporting period, the High-level Coordinator continued efforts to facilitate the resolution of the issue of spare parts belonging to the Kuwait Airways Corporation (KAC) that were seized in 1990/91 by the previous Iraqi regime and reported to be on board the Iraqi Airways Company (IAC) aircraft stationed in Tunisia. In order to address the matter, and with the concurrence of the Governments of Iraq, Kuwait and Tunisia, Ambassador Vorontsov led a joint Kuwait-Iraq mission of experts to Tunisia from 12-16 September 2005.

14. The experts travelled to Tozeur, Ramada and Tunis, where they inspected Iraqi aircraft and Tunisian facilities reported to contain spare parts belonging to KAC. Kuwait Airways Corporation spare parts were found on board Iraqi aircraft stationed in Tozeur and at the Tunisian military base of Aweyna. An engine identified by Kuwaiti and Iraqi experts as belonging to KAC was found attached to the wing of the Iraqi Boeing 747 aircraft parked in Tozeur. No KAC spare parts were discovered on board Iraqi aircraft stationed in Ramada. A protocol on the findings was signed by the representatives of the Iraq and Kuwait teams and endorsed by the High-level Coordinator (annex).

15. It was agreed in the Protocol that the handover of the KAC spare parts and engine from Iraq to Kuwait would be considered completed when the spare parts and engine and their documentation, provided by Iraq, left Tunisia.

16. It should be noted that the Government of Tunisia facilitated the mission of experts, allowing access to the airports, aircraft and facilities. Ground and air (Tozeur-Ramada-Tozeur) transportation and security and protocol services were also provided. All parties cooperated constructively during the mission.

17. Upon completion of his travel to Tunisia, the High-level Coordinator wrote to the Governments of Kuwait, Iraq and Tunisia informing them of the results of the mission. He requested the Tunisian authorities to facilitate operations relevant to preparing the KAC engine and spare parts to leave Tunisia.

18. In a letter dated 24 September 2005, the Permanent Representative of Tunisia to the United Nations informed the High-level Coordinator of his Government's wish to receive the complete list of spare parts that had been found during the joint Kuwait-Iraq mission to Tunisia and ascertained as belonging to Kuwait. On 14 November, while in Kuwait, the High-level Coordinator handed over to the Ambassador of Tunisia the list of spare parts received earlier from the Ministry of Foreign Affairs of Kuwait. The High-level Coordinator then requested that the Government of Tunisia expedite the return of both the spare parts and the engine. All items should be exempt from tax and customs duty.

19. While it was possible to ascertain the presence in Tunisia of the spare parts and engine belonging to KAC, real progress in their return to the lawful owner — the State of Kuwait — is yet to be achieved. The Government of Tunisia has continued to link the final settlement of the issues related to the spare parts and engine to the prior payment of the cost of storage and maintenance of the Iraqi aircraft. The High-level Coordinator is of the opinion that the issue of the Kuwaiti spare parts and engine covered by his mandate and that of fees for storage and maintenance of the Iraqi aircraft in Tunisia should be dealt with separately. He made this position clear in his correspondence and conversations with the Tunisian authorities, including the meeting in Tunisia with the Assistant Secretary of State for American and Asian Affairs of the Ministry of Foreign Affairs of Tunisia.

20. On 14 November, Ambassador Vorontsov also met in Kuwait with the head of Kuwait Airways Corporation. The High-level Coordinator was informed of the readiness of the Kuwait team to travel to Tunisia and undertake operations relevant to the KAC engine and spare parts leaving Tunisia. On 29 November, the *Chargé d'affaires a.i.* of the Permanent Mission of Iraq advised the High-level Coordinator that the Government of Iraq was ready to send an Iraqi technical delegation to deal with the removal of the KAC engine from the Iraqi Airways plane stationed in Tozeur and to hand it over to a Kuwaiti technical delegation. Those communications certify that Kuwait and Iraq are in agreement on the need to finalize the issue of the spare parts as soon as possible.

21. The High-level Coordinator has no information that the Kuwaiti national archives have been found. During the past year in his meetings in Kuwait and elsewhere he has expressed concern about the fate of those documents, whose return Kuwait considers essential.

V. Observations

22. Given the security situation in Iraq and the technical difficulties in the identification process, progress towards the resolution of the issue of the repatriation and return of all Kuwaiti and third-country nationals or their remains has been slow. Kuwait continues to face no small task in locating mass graves and in recovering and identifying mortal remains. I remain hopeful that new findings will take place next year and that more files will be closed. I fully support Kuwait's call for expertise from specialized laboratories worldwide in order to resolve the problems encountered with the identification of the mortal remains already brought to Kuwait.

23. I respect and support the determination of the Government of Kuwait and its people to bring this essentially humanitarian process to a satisfactory resolution and alleviate the years of grief caused by this human tragedy. I am encouraged that Kuwait continues to enjoy the support and cooperation of the Tripartite Commission and its Technical Subcommittee chaired by the ICRC. The Commission remains the principal coordination and policymaking mechanism for dealing with the issue of persons unaccounted for since the 1990/91 Gulf war. The High-level Coordinator will continue to work in close contact with the Commission and with the Governments of Kuwait and Iraq.

24. I commend the constructive stance by the new Iraqi authorities in this humanitarian matter. The initiatives of the Government of Iraq, which have already benefited the issue of the missing persons, have become all the more important

given the prevailing security conditions in the country. I am confident Kuwait greatly values this assistance.

25. I remain troubled, however, by the absence of any information regarding the Kuwait archives. More than two years have elapsed since the removal of Saddam Hussein's regime, and access was seemingly gained to all areas where the seized documents could possibly be located. I call on all parties concerned to shed light on the archives issue and bring it to speedy resolution.

26. The mission of experts led by the High-level Coordinator to Tunisia has ascertained that the spare parts and engine found in Tunisia belong to Kuwait. This is further evidence of the illegal removal of items from Kuwait by the previous Iraqi regime. I urge the Government of Tunisia to facilitate the return of the spare parts and engine. Those items must be returned to Kuwait unconditionally and without the imposition of taxes and duty. Iraq and Kuwait are ready to undertake the handover.

Annex

Protocol of the visit to Tunisia of the joint Kuwait-Iraq mission of experts led by the High-level Coordinator

On the initiative of Ambassador Yuli Vorontsov, the High-level Coordinator appointed in accordance with paragraph 14 of Security Council resolution 1284 (1999), the joint Kuwait-Iraq mission of experts travelled to Tunisia from 12 to 16 September 2005. The purpose of the mission led by Ambassador Vorontsov was to ascertain the presence of spare parts belonging to the Kuwait Airways Corporation (KAC) reported to be on board the Iraqi Airways Company's (IAC) aircraft stationed in Tunisia, and to facilitate the return of these spare parts to Kuwait. The Government of Tunisia welcomed and assisted the mission by providing access, inter alia, to the planes, ground and air transportation (Tozeur-Ramada) and security.

The mission visited Tunis, Tozeur and Ramada. In Tozeur, two IAC Boeing 747 aircraft were parked. The mission ascertained that an engine (No. 3) belonging to KAC was attached to the wing of IAC aircraft 747 (registration # IY-AGP). Several medium-size carton boxes located in the forward cargo compartment of the same aircraft contained spare parts and accessories for the engine and aircraft. The Iraqi experts will remove the engine from the aforementioned plane. Since the Iraqi experts did not have a special engine removal tool, the Kuwaiti experts agreed to bring it to Tozeur.

The cargo compartment of the second Boeing 747 (registration # YI-ALM) contained several small boxes of spare parts identified as belonging to KAC.

In Ramada, the mission inspected two Boeing 727 aircraft (registration # IY-AGM and YI-AGR). No Kuwaiti spare parts were found.

In Tunis the mission visited the military base of Aweyna. Six containers with spare parts were found. Several items were immediately identified as belonging to KAC. The Kuwaiti and Iraqi experts agreed to continue the process of identification and will prepare a complete inventory.

The handover of these spare parts and engine from Iraq and Kuwait will be considered completed when the spare parts and engine as well as their records, to be provided by Iraq, leave Tunisia.

For Kuwaiti experts
(Signed) Abdulsattar **Settar**

For Iraqi experts
(Signed) Saad Mahmoud **Al-Shouk**

Witnessed by
(Signed) Ambassador Yuli **Vorontsov**

16 September 2005